

### **REMARKS**

Reconsideration and allowance in view of the foregoing amendment and the following remarks are respectfully requested. Claims 32, 50 and 59 are amended without prejudice or disclaimer.

#### **Rejection of Claims 32-34, 36 and 39-43 Under 35 U.S.C. §102(e)**

The Office Action rejects claims 32-34, 36 and 39-43 under 35 U.S.C. §102(e) as being anticipated by Sezan et al. (U.S. Patent No. 6,236,395) ("Sezan et al."). Applicants have amended claim 32 to recite additional limitations to distinguish from Sezan et al.

Applicants note that the amendments are made without prejudice or disclaimer inasmuch as Applicants believe that there are limitations not taught in the reference. For example, Applicants dispute that Sezan et al. teach summarizing and storing each program segment into a corresponding summary segment inasmuch as the portion cited in the Office Action relate to a key frame summary that relates to summaries using a key frame rather than summary segments. However, to further prosecution, Applicants have amended claim 32 to recite that certain steps occurred with a network node with regards to dividing, summarizing and generating metadata files and that also some steps occur such as a request from a user on a client device. Furthermore, Applicants have amended claim 32 to recite that the summary segments are streamed in a first channel to the client device and the program segments are streamed in a second channel to the client device. Applicants submit that this feature is not taught or suggested in the reference. Notably, Applicants note that Figure 2 only shows with regards to the flow of data to the display 80 and from the audio visual program 38 a single channel and there is no discussion of separating the summary segments from the program segments. In addition, Applicants have also amended the claim to recite wherein each summary segment includes audio, full-motion video and at least one still picture. Applicants submit that this feature with

regards to how the summary segments are structured is not taught or suggested. Therefore, Applicants submit that claim 32 is patentable and in condition for allowance. Claims 33, 34, 36 and 40-43 each depend from claim 32 and recite further limitations therefrom. Accordingly, Applicants submit that these claims are patentable and in condition for allowance.

**Rejection of Claims 37-38, 50-51, 53-55 and 57-63 Under 35 U.S.C. §102(e)**

The Office Action rejects claims 37-38, 50-51, 53-55 and 57-63 under 35 U.S.C. §102(e) as being anticipated by Rui et al. (U.S. Patent Publication No. 2005/0160457) ("Rui et al."). Claim 37 depends from claim 32 and is rejected as being anticipated by Rui et al. Applicants respectfully traverse this rejection and question the analysis. In other words, inasmuch as this is a dependent claim, Applicants respectfully submit that it is inappropriate to reject this claim under §102(e) as being anticipated by Rui et al. where in the parent claim is rejected by Sezan et al. Accordingly, Applicants respectfully request a new Office Action which appropriately lays out the rejection in view of a combination of prior art inasmuch as it is illogical to reject these dependent claims as under §102 based on a completely separate reference from the rejection of the parent claim.

In any event, Applicants submit that since claims 37 and 38 depend from patentable claim 32, Applicants submit that these claims are patentable and in condition for allowance.

Claim 50 is amended in a similar manner to claim 1. Applicants submit that Rui et al. fail to teach this revised claim. For example, paragraphs [0041] and [0042] fail to teach anything regarding channels with one of which transmits summary segments and another of which transmits program segments. Therefore, Applicants submit that claim 50 and dependent claims 51, 53-55, 57 and 58 is patentable and in condition for allowance.

Claim 59 is amended to recite a network-based system and includes limitations similar to that made in claim 32. Therefore, Applicants submit that claim 59 and dependent claims 60-63 are patentable and in condition for allowance.

**Rejection of Claims 35 and 52 Under 35 U.S.C. §103(a)**

The Office Action rejects claims 35 and 52 under 35 U.S.C. §103(a) as being unpatentable over Sezan et al. Applicants traverse the rejection that claims 35 and 52 are unpatentable over Sezan et al. under §103.

Applicants traverse the conclusion that one of ordinary skill in the art would simply easily have been aware of the MPEG-2 standard and therefore, would have included the MPEG-2 standard for the advantages given above. Applicants submit that these are different standards and that if one of skill in the art would have known about the MPEG-2 standard then Sezan et al. would have already made reference to the MPEG-2 standard in their disclosure. For example, information associated with MPEG-2 has been published since 1998, prior to the provisional application of Sezan et al. Therefore, Applicants simply submit that if one of ordinary skill in the art certainly was aware of the MPEG-2 standard at the time of the filing of the Sezan et al. application and nevertheless failed to discuss or cite it in their application. Applicants therefore submit that it is inappropriate essentially to take official notice that one of ordinary skill in the art would have easily been aware of the MPEG-2 standard and therefore would have included the MPEG-2 standard for the advantages given. Applicants submit that if this is the case, then Sezan et al. would have done that when they prepared and filed their patent application.

Furthermore, Applicants note that MPEG standards are not simply interchangeable. For example, MPEG-2 is the standard that's used for digital video broadcast and DVD discs. Therefore, MPEG-2 focuses on the core protocols for digital television and DVD formats. In contrast, MPEG-7 is a multi-media content description standard. MPEG-7 relates to a

description that is associated with the content itself to allow for the fast and efficient searching for material that is of interest to the user. It differs from the standards that relate to the actual encoding of the moving pictures and audio like MPEG-2. It uses XML to store meta-data and can be attached to time codes in order to tag particular events or to synchronize lyrics and so forth. Therefore, Applicants respectfully submit that one of skill in the art, understanding the differences between MPEG-2 and MPEG-4 would not necessarily treat these standards as simply interchangeable. Especially given the fact that there are a series of standards that deal with the actual encoding of moving pictures and audio such as MPEG-2 (and MPEG-1 and MPEG-4) while MPEG-7 represents a different type of standard that is associated with a description scheme and descriptors associated with the content itself. One of skill in the art would understand this and understand that these standards are simply not interchangeable and it would not therefore be obvious to simply incorporate MPEG-2 in any case where MPEG-7 is discussed. That is simply not the case and such would be understood by one of skill in the art. Therefore, claims 35 and 52 are patentable.

**Rejection of Claim 56 Under 35 U.S.C. §103(a)**

The Office Action rejects claim 56 under 35 U.S.C. §103(a) as being unpatentable over Rui et al. in view of Sezan et al. Applicants respectfully submit that claim 56 is patentable and in condition for allowance inasmuch as it depends from a patentable parent claim. Furthermore, when discussing this rejection at the bottom of page 12, the Examiner addresses claim 10 rather than claim 56 and therefore, Applicants are unsure of what claim is being discussed. Applicants respectfully request clarification in order to avoid any confusion.

**Rejection of Claims 44-49 Under 35 U.S.C. §103(a)**

The Office Action rejects claims 44-49 under 35 U.S.C. §103(a) as being unpatentable over Sezan et al. in view of Seidman (U.S. Patent No. 6,298,482) ("Seidman"). Applicants

submit that inasmuch as these claims depend from a patentable parent claim, that these claims are patentable and in condition for allowance. Applicants do not acquiesce that it would be obvious for one of skill in the art to combine Sezan et al. with Seidman. However, inasmuch as the parent claim is patentable, Applicants submit that these claims are patentable and in condition for allowance as well.

Applicants also traverse the taking of official notice with regards to using the interrupt command delivered over an interrupt channel I, Applicants submit that the concept of interrupted delivery of a program within the context of the parent claim 32, especially as amended with regards to using various channels for the program and the summary segments, Applicants submit that this subject in the present case is sufficiently complicated that it is not the type of information that one can simply take official notice of. Therefore, Applicants would either request documentary evidence or more appropriately, in view of the amendments set forth above, a Notice of Allowance.


Applicants submit that based on the analysis set forth above and the appropriate claim amendments, that the present application is patentable and in condition for allowance.

**CONCLUSION**

Having addressed all rejections and objections, Applicants respectfully submit that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited. If necessary, the Commissioner for Patents is authorized to charge or credit the **Novak, Druce & Quigg, LLP, Account No. 14-1437** for any deficiency or overpayment.

Respectfully submitted,

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By:  \_\_\_\_\_

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